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A/50/204
S/1995/453
2 June 1995

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GENERAL ASSEMBLY
Fiftieth session
Item 92 of the preliminary list*
THE SITUATION IN THE OCCUPIED
TERRITORIES OF CROATIA

SECURITY COUNCIL
Fiftieth year

Letter dated 1 June 1995 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith the letter dated 1 June 1995 from the Deputy Prime Minister and Minister for Foreign Affairs, Dr. Mate Granic, addressed to your Excellency (see annex).

I would kindly request your assistance in distributing the present letter and its annex as a document of the fiftieth session of the General Assembly, under item 92 of the preliminary list, and of the Security Council.

(Signed) Mario NOBILO
Permanent Representative

* A/50/50/Rev.1.

95-16430 (E) 020695 050695

ANNEX

Letter dated 1 June 1995 from the Deputy Prime Minister and Minister for Foreign Affairs of Croatia addressed to the Secretary-General

At the time of your preparation of the report on the implementation of the mandate of the United Nations Confidence Restoration Operation in Croatia (UNCRO), pursuant to Security Council resolution 994 (1995) of 17 May 1995, I would like to express that the Government of the Republic of Croatia is seriously concerned with the most recent joint initiatives by the political leadership of the Bosnian and Croatian Serbs aimed at forming the so-called "United Serbian Republic" that would be comprised of the occupied territories of the Republic of Croatia and the territory of the Republic of Bosnia and Herzegovina under Serb control.

My Government is of the view that this poses a serious threat to the peace process both in Croatia and Bosnia and Herzegovina, and serves as a threat to the peace and stability of the region as a whole. "Unification" of the Serb-occupied territories constitutes a blatant violation of the sovereignty and territorial integrity of Croatia and Bosnia and Herzegovina and negates the international community's peace initiatives, which are based on full respect for the territorial integrity of these two Member States of the United Nations. This "unification" would be a direct violation of relevant Security Council and General Assembly resolutions and would put the Republic of Croatia in a position where it would be forced to undertake all appropriate means to defend its sovereignty and territorial integrity.

In order to prevent this situation from developing, UNCRO has to implement speedily its mandate by controlling those parts of Croatia's international borders that are not under the effective control of the legitimate Croatian authorities. Implementation of the UNCRO mandate would, therefore, act as a deterrent to the "unification". In that regard, the Republic of Croatia would support urgent action by the Security Council aimed at preventing actions which would lead to an escalation of the conflict in the region.

Further, it is the view of the Croatian Government that the issue of alleviation of the sanctions regime imposed on the "Federal Republic of Yugoslavia (Serbia and Montenegro)" without taking into consideration the situation in Croatia and the role of the "Federal Republic of Yugoslavia (Serbia and Montenegro)" in maintaining a state of occupation over a part of Croatian territory would have a detrimental effect on the peace process in the region. Security Council resolution 871 (1993) of 4 October 1993 placed a direct connection with the sanctions regime and the role of the "Federal Republic of Yugoslavia (Serbia and Montenegro)" in the occupation of Croatian territory. In this regard, the Republic of Croatia has presented, inter alia, documentation on the direct involvement of the "Army of Yugoslavia" in the occupied territories of Croatia (S/1995/229 and S/1995/401).

My Government applauds any moves by the Belgrade authorities by which it would distance itself from the local Serb authorities in Knin and Pale.

However, we are also of the view that Belgrade's recognition of Bosnia and Herzegovina would not by itself lead to a change in the actual situation on the ground. Lifting of sanctions should be based on actual results and not on proclamations. Furthermore, any possible lifting of sanctions imposed on the "Federal Republic of Yugoslavia (Serbia and Montenegro)" which would not involve resolution of the conflict in Croatia on the basis of respect for its sovereignty and territorial integrity would leave the major problem in the region unsolved, leaving the potential for a greater conflict in the future which could have repercussions in the entire region.

My Government is concerned that the lifting of sanctions against the "Federal Republic of Yugoslavia (Serbia and Montenegro)" would not only eliminate international leverage on the authorities in Belgrade but would also encourage the Belgrade authorities to seek the unification of all lands which are occupied or controlled by Serbs. This would not only violate the principle of territorial integrity of States - an underlying principle of the United Nations - but would also threaten peace and stability in the region.

(Signed) Mate GRANIC
Deputy Prime Minister and
Minister for Foreign Affairs

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A/50/205
S/1995/435
30 May 1995
ENGLISH
ORIGINAL: RUSSIAN

GENERAL ASSEMBLY
Fiftieth session
Item 70 of the preliminary list*
GENERAL AND COMPLETE DISARMAMENT

SECURITY COUNCIL
Fiftieth year

Letter dated 30 May 1995 from the Permanent Representative of Kazakstan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of a statement by the Ministry of Foreign Affairs of the Republic of Kazakstan to the effect that Kazakstan, strictly complying with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and the Treaty on the Reduction and Limitation of Strategic Offensive Arms, has removed from its territory all nuclear weapons (see annex).

I should be grateful if this letter and its annex were circulated as an official document of the General Assembly, under item 70 of the preliminary list, and of the Security Council.

(Signed) Akmaral Kh. ARYSTANBEKOVA
Ambassador
Permanent Representative of Kazakstan
to the United Nations

* A/50/50.

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ANNEX

Statement by the Ministry of Foreign Affairs of the Republic of Kazakstan of 24 May 1995

The Ministry of Foreign Affairs has been authorized to state that the Republic of Kazakstan, strictly complying with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and the Treaty on the Reduction and Limitation of Strategic Offensive Arms, has removed from its territory all nuclear weapons.

The security guarantees provided to Kazakstan by the nuclear Powers - the United States of America, the Russian Federation, China, the United Kingdom of Great Britain and Northern Ireland and France - played an important role enabling our State to carry out its obligations under the Treaties in question.

Steadfastly advocating the strengthening of the nuclear non-proliferation regime, Kazakstan, at the recent Conference on the Non-Proliferation Treaty in New York, endorsed the indefinite extension of that basic agreement as a guarantee for maintaining and strengthening global security and stability. Thus, the decision adopted at the Conference on the indefinite extension of the Treaty on the Non-Proliferation of Nuclear Weapons is fully in accordance with the objectives of Kazakstan's international policy.

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General Assembly
Security Council

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A/50/206
S/1995/439
31 May 1995
ENGLISH
ORIGINAL: RUSSIAN

GENERAL ASSEMBLY
Fiftieth session
Item 70 of the preliminary list*
GENERAL AND COMPLETE DISARMAMENT

SECURITY COUNCIL
Fiftieth year

Letter dated 31 May 1995 from the Permanent Representative of Kazakstan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of an address dated 26 May 1995 by the President of the Republic of Kazakstan, N. A. Nazarbaev, to all citizens of the Republic concerning the destruction of the last nuclear explosive device located at the former Semipalatinsk test site (see annex). I would be grateful if you would have this letter and the annex to it circulated as an official document of the General Assembly under item 70 of the preliminary list and as a document of the Security Council.

(Signed) Akmaral Kh. ARYSTANBEKOVA
Ambassador
Permanent Representative of Kazakstan
to the United Nations

* A/50/50/Rev.1.

Annex

Address by the President of Kazakstan to all citizens of the Republic dated 26 May 1995

A line is finally being drawn under a long period of Kazak history connected with the testing and deployment of nuclear weapons in our country: The last nuclear explosive device at the former Semipalatinsk test site is to be destroyed.

For many years the long-suffering Kazak people bore the brunt of the international nuclear frenzy. Over a period of almost 45 years a total of 459 nuclear explosions were conducted on the Semipalatinsk steppe, 113 of them in the atmosphere. The health of half a million Kazaks who were exposed to atomic radiation was sacrificed to the insane nuclear arms race. We cannot begin to estimate the colossal material and moral damage inflicted on our people.

Of course, neither the population of the Republic nor the President could countenance this state of affairs. The permanent suffering inflicted on the victims and the sharp sword hanging over our heads have impelled me to heed the voice of reason and the voice of my heart: In August 1991 I promulgated a decree closing down the Semipalatinsk nuclear test site.

However, our country has continued to harbour the awful legacy of the cold war - the last nuclear explosive device emplaced there by the military departments of the former USSR prior to the closure of the test site.

At the time only a small group of Kazak and Russian specialists knew about this dangerous situation, but nevertheless in my capacity of head of State I never stopped thinking about the need to eliminate the danger. Since a nuclear detonation, albeit a very last one, was totally out of the question, I ordered work to be carried out on formulating various options for destroying the device which would be safe both for people and the environment. Specialists subsequently decided that the best option would be to eliminate the device using a conventional explosive. This method would not entail a nuclear explosion as such, and the chance of any radioactivity or ionizing radiation escaping has been totally excluded. The nuclear explosive device will be destroyed at the end of May or during the first 10 days of June.

All work connected with removing the device from storage has been conducted under my constant supervision. And during the last few days information about the completion of this unique operation has regularly passed across my desk. Kazakstan is therefore ensuring that the activities of the military personnel and specialists are closely monitored.

In a few days' time the final chapter in our State's nuclear history will be closed thanks to the efforts of Russian and Kazak specialist personnel. We have been persistently and systematically advancing towards this goal since achieving genuine independence. Let us recall the Alma Ata Declaration adopted in December 1991, when the nuclear-weapon States made an immediate commitment to

establish mechanisms for joint control of those weapons. We then signed the five-party Lisbon Protocol, thus committing ourselves to implement the Treaty on the Reduction and Limitation of Strategic Offensive Arms. In 1993 another historic event occurred - Kazakstan acceded to the Treaty on the Non-Proliferation of Nuclear Weapons, whereupon it basically became a non-nuclear State. The security guarantees we received from the nuclear Powers demonstrate the international community's support for our principled position on disarmament issues.

Kazakstan intends to adhere closely to its international obligations. At the end of April this year the last lethal warheads were removed from the territory of the Republic. Henceforth Kazaks need not fear the nuclear genie which has always threatened to break free.

Following the elimination of its nuclear weapons, our country will undoubtedly grow stronger. By demonstrating our adherence to a policy of peace and cooperation, we have not only ushered a spirit of tranquillity and stability into our home but have also thrown open our doors to an equitable and fruitful dialogue with all other countries; we have resolutely embarked on the path of reforming our society and building a flourishing democratic State.

I firmly believe that I enjoy the support of all Kazaks, for whom the greatest treasure is a clear sky undimmed by the fires of war. For there is no greater happiness than to be sure of what tomorrow will bring, to work in peace, to raise one's children, and to tend one's hearth and home.

I hope that our country will be able to derive full benefit from the historic opportunity which has been offered us, and that it will embark on the road to civilized development. I wish you all peace, prosperity, happiness, well-being and tranquillity.

(Signed) Nursultan NAZARBAEV

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General Assembly

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A/50/207
5 June 1995

ORIGINAL: ENGLISH

Fiftieth session
Item 114 (c) of the preliminary list*

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 1 June 1995 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General

In accordance with instructions from my Government, I wish to inform you of the extremely grave situation of the Roman Catholic populations in the Banja Luka region of the Republic of Bosnia and Herzegovina, the occupied Croatian territory of Eastern Slavonia, as well as in Serbia. There have been serious human rights violations, including attacks on Catholic clerics as well as the remaining Catholics in these regions, who are predominantly ethnic Croats. Presented below is a list of some of the most serious violations committed during the month of May 1995, by region.

Diocese of Banja Luka (Republic of Bosnia and Herzegovina)

4 May, Bosanski Aleksandrovac and Nova Topola: Roman Catholic nuns are kidnapped and expelled from these two historic Catholic convents.

5 May, Vujnovici: Catholic church is set afire and burned down.

6 May, Petricevac (suburb of Banja Luka): Serbian paramilitary forces maltreat Franciscan friars and nuns and then use explosives to destroy a Franciscan monastery and church. This action results in the death of Alojz Atlija, an elderly disabled priest. Afterwards, the remaining priests and nuns are expelled.

Night of 6/7 May, Sargovac: The Catholic church is totally demolished.

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7 May, Trn: The parish priest, Father Blaz Markovic, is badly mistreated.

Night of 7/8 May, Majdan (environs of Mrkonjic Grad): The sole remaining Catholic church in this area is burned down.

12 May, Presnacani: The Catholic church "Saint Theresa of the Child of God" is destroyed and the rectory is burned down. The burned bodies of parish priest, Father Filip Lukenda, and Sister Cecilija Pave Grgic are later recovered.

13 May, Motike: The bell-tower of the Catholic church is demolished by explosives, causing severe damage to the bell-tower and church.

Night of 14/15 May, Motike: An elderly Bosnian Croat couple, Franjo Grgic (65) and Zlata Grbic (64) are brutally murdered in their home.

17 May, Trn: Two men arrived in evening hours, pointed a gun at the parish priest, tied and robbed him and maltreated Sister Danica who was also present.

18 May, Trn: The Catholic church is blown up with explosives and the church centre burned down.

Since the beginning of May this year, Bosnian Serb paramilitaries have destroyed six Roman Catholic churches, one monastery and one rectory and have caused the deaths of two priests and one nun. Since 1991, in the Diocese of Banja Luka, tens of thousands of Catholics have been expelled, over 400 have been murdered, 4 priests have been killed, 41 churches and 3 monasteries destroyed and 32 churches damaged. To date, 81 per cent of the Bosnian Croat and 82 per cent of the Bosnian Muslim pre-war population have been ethnically cleansed in the region. It must be pointed out that this area was not the scene of any military operations, nor did the Croat and Muslim populations offer any resistance to the Bosnian Serb authorities.

The city of Banja Luka is in the process of becoming an ethnically pure Serbian city although Serbs have historically been a minority there. According to the official census of 1948, the city of Banja Luka had 31,228 inhabitants: 10,861 Serbs (34.8 per cent), 9,951 Muslims (31.9 per cent) and 8,662 Croats (27.7 per cent).

Province of Vojvodina (Serbia)

4 May, Hrtkovci: The Catholic church is plundered and set afire.

5 May, Bac: A cross on a Roman Catholic church is destroyed.

5 May, Surcin: One cross and 12 tombstones are destroyed in a Catholic cemetery.

19 May, Srijemska Mitrovica: A bomb is thrown into the courtyard of the Catholic church.

21 May, Vasica (near Sid): The Catholic church is completely destroyed in an explosion.

The above represents a continuation of the policy of the Belgrade authorities of ethnically cleansing the province of Vojvodina and transforming it into a purely Serbian province. Since 1991, close to 40,000 ethnic Croats and 50,000 ethnic Hungarians have been driven out or forced to move from the province. It should be noted that ethnic Croats in Vojvodina are an autochthonous people who have been living there together with other nationalities for centuries.

Eastern Slavonia (occupied Croatia)

Early May, Ilok: During religious services, a group of Serbs enters the Catholic church, beats and harasses the parishioners and places the only remaining Roman Catholic priest in the region, Father Marko Malovic, under house arrest.

17 and 18 May, Bapska, Tovarnik, Sarengrad and Ilok: Over 500 elderly Croats are expelled and forced to march over the Danube river to Serbia, where they are held in inhumane conditions and isolated in the town of Morovic.

The above-mentioned actions by the Serb authorities and paramilitary forces no doubt represent a cowardly reaction to the successful military operation by Croatian forces that liberated Western Slavonia. However, the fact that Catholic clerics, churches and symbols have been the target of such actions leads to the conclusion that the recent anti-Catholic campaign by the Belgrade authorities has certainly contributed to such behaviour.

This campaign against the Catholic Church in Croatia is evidenced by a proliferation of letters and "memoranda" that have been circulated as documents of the General Assembly by the representative of "Yugoslavia" to the United Nations. In these documents, the Catholic Church in Croatia is accused of forcibly converting "10,000" Serbian children to Catholicism.

It is no surprise that these outrageous fabrications have not been confirmed by the Special Rapporteur of the Commission on Human Rights, Mr. Tadeusz Mazowiecki, or by any United Nations human rights body or any recognized human rights organizations. However, such malicious fabrications have no doubt stirred anti-Catholic sentiments among the ethnic Serb population in Serbia, Bosnia and Herzegovina and the occupied territories in Croatia, helping to cause the tragic consequences listed above.

The Republic of Croatia is deeply disturbed by the fact that human rights agenda items of the General Assembly are being used to deluge the United Nations diplomatic community with information that is not designed to foster the cause of human rights but rather to spread disinformation and to sow the seeds for interreligious hatred and intolerance.

This is all the more disturbing because documents are circulated that are stated to originate from the Government of the "Federal Republic of Yugoslavia". It should be noted that, in resolution 47/1, the General Assembly stated that "the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations". Obviously, a State that should apply for membership is not considered to be a State Member of the United Nations.

Therefore, the situation exists whereby a non-member State is allowed to circulate an endless stream of documents filled with disinformation that have had the result of stirring up hatred and religious intolerance.

I would kindly request your assistance in distributing this letter as a document of the General Assembly under item 114 (c) of the preliminary list.

(Signed) Mario NOBILO
Permanent Representative

UNITED
NATIONS

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A/50/208
6 June 1995

ORIGINAL: ENGLISH

Fiftieth session
Item 16 (b) of the preliminary list*

ELECTIONS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER ELECTIONS

Election of 12 members of the World Food Council

Note by the Secretary-General

1. The General Assembly, in paragraph 8 of its resolution 3348 (XXIX) of 17 December 1974, decided that the World Food Council should consist of 36 members to be nominated by the Economic and Social Council and elected by the General Assembly for a term of three years, taking into consideration balanced geographical representation, with one third of the members retiring every year and the retiring members being eligible for re-election. The term of the following members expires on 31 December 1995: Ecuador, France, Guinea-Bissau, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Nigeria, Norway, Peru and Tunisia.

2. By its decision 1995/224 of 4 May 1995, the Economic and Social Council, acting in pursuance of paragraph 8 of General Assembly resolution 3348 (XXIX), decided to nominate the following States for election by the Assembly to membership in the World Food Council:

(a) African States (three vacancies): Algeria, Mali, Togo;

(b) Asian States (three vacancies): Iran (Islamic Republic of), Japan, India;

(c) Eastern European States (one vacancy): Hungary;

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(d) Latin American and Caribbean States (two vacancies);

(e) Western European and other States (three vacancies).

3. The Council postponed nominations for two members from Latin American and Caribbean States and three members from Western European and other States.

4. In addition, the Council postponed nominations for two members from Western European and other States whose elections were postponed by the General Assembly at its forty-ninth session, and one member from Eastern European States and one member from Western European and other States whose elections were postponed by the General Assembly at its forty-eighth session.

UNITED
NATIONS

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A/50/209
5 June 1995

ORIGINAL: ENGLISH

Fiftieth session
Item 16 (c) of the preliminary list*

ELECTIONS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER ELECTIONS

Election of seven members of the Committee for Programme and Coordination

Note by the Secretary-General

1. In accordance with Economic and Social Council resolution 2008 (LX) of 14 May 1976 and General Assembly decision 42/450 of 17 December 1987, the members of the Committee for Programme and Coordination are nominated by the Economic and Social Council and elected by the General Assembly for a term of three years.

2. The membership of the Committee in 1995 is as follows (see General Assembly decision 49/307):

Argentina,** Bahamas,*** Belarus,** Benin,*** Brazil,** Cameroon,** Canada,** China,* Comoros,** Congo,** Cuba,** Egypt,* France,*** Germany,** Ghana,*** India,** Indonesia,** Iran (Islamic Republic of),** Japan,* Kenya,* Mexico,*** Netherlands,** Nicaragua,* Norway,** Pakistan,** Republic of Korea,* Romania,** Russian Federation,*** Senegal,** Togo,* Trinidad and Tobago,** Ukraine,** United Kingdom of Great Britain and Northern Ireland** and United States.***

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* Term of office expires in 1995.
** Term of office expires in 1996.
*** Term of office expires in 1997.

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3. The General Assembly, at its fiftieth session, will, therefore, be called upon to elect seven members, on the nomination of the Economic and Social Council, to fill the vacancies in the Committee that will occur on 31 December 1995 upon the expiration of the terms of office of the following members: China, Egypt, Japan, Kenya, Nicaragua, Republic of Korea and Togo. In accordance with General Assembly decision 42/450, the vacancies are to be filled as follows:

(a) Three members from African States;

(b) Three members from Asian States;

(c) One member from Latin American and Caribbean States.

4. By its decision 1995/224 of 4 May 1995, the Economic and Social Council nominated the following Member States for election by the General Assembly at its fiftieth session, for a term of three years, beginning on 1 January 1996:

(a) African States (three vacancies): Egypt, Togo and Zaire;

(b) Asian States (three vacancies): China, Japan and Republic of Korea;

(c) Latin American and Caribbean States (one vacancy): Uruguay.

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A/50/210
7 June 1995
ENGLISH
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Fiftieth session
Item 57 of the preliminary list*

COMPLIANCE WITH ARMS LIMITATIONS AND DISARMAMENT OBLIGATIONS

Letter dated 1 June 1995 from the Permanent Representative of Ecuador to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith the communiqué of the Ministry of Foreign Affairs of Ecuador containing the text of the statement issued by the Government of Ecuador on the nuclear test conducted by China at Lop Nor on 15 May 1995.

I should be grateful if you would have this letter and its annex distributed as a document of the General Assembly, under item 57 of the preliminary list.

(Signed) Luis VALENCIA RODRIGUEZ
Permanent Representative

* A/50/50/Rev.1.

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Annex

COMMUNIQUÉ ON THE NUCLEAR EXPLOSION IN CHINA

Ecuador condemns the latest nuclear detonation by the Government of China, carried out at the Lop Nor testing ground in the province of Xinjiang on 15 May 1995. This act runs counter to the goal of nuclear non-proliferation and to the resolution adopted by consensus at the Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, which urges the Conference on Disarmament to conclude negotiations on a comprehensive nuclear test-ban treaty.

Ecuador unconditionally supports the international regime established in the Treaty on the Non-Proliferation of Nuclear Weapons, which will now remain in force indefinitely, as decided by the Parties to the Conference held in New York from 17 April to 12 May 1995. That regime must be buttressed by other international instruments that will contribute to general and complete disarmament and, consequently, to world peace and security.

Accordingly, Ecuador supports the negotiations being held by the Conference on Disarmament on the text of a comprehensive nuclear test-ban treaty for submission to the General Assembly, since such tests result in all kinds of damage to the environment and to human health, in addition to being the first step towards vertical proliferation of nuclear weapons.

It is Ecuador's hope that, until such an international instrument is adopted, all States will refrain from conducting nuclear tests.

Consequently, it welcomes the initiative of some nuclear-weapon States that have unilaterally imposed a moratorium on their own nuclear tests, thereby demonstrating their good will with regard to the negotiations under way in the Conference on Disarmament.

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A/50/211
7 June 1995
ENGLISH
ORIGINAL: SPANISH

Fiftieth session
Item 27 of the preliminary list*

NECESSITY OF ENDING THE ECONOMIC, COMMERCIAL AND FINANCIAL EMBARGO IMPOSED BY THE UNITED STATES OF AMERICA AGAINST CUBA

Letter dated 26 May 1995 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

As is well known, the Congress of the United States of America is discussing new legislation to tighten the United States economic, trade and financial embargo against Cuba and to expand its extraterritorial scope. As one of its key elements, it takes up again the question of former United States property in Cuba and the nationalization process carried out in my country during the early 1960s.

In that connection, I have the honour to send you, annexed hereto, a document entitled "Renewed attempts to tighten the United States economic embargo against Cuba and the truth about the Cuban nationalizations", which I should like to request you to have circulated as a document of the General Assembly under item 27 of the preliminary list.

(Signed) Bruno RODRIGUEZ
Ambassador
Permanent Representative

* A/50/50/Rev.1.

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ANNEX

Document entitled "Renewed attempts to tighten the United States economic embargo against Cuba and the truth about the Cuban nationalizations", issued by the Government of Cuba

A study by a group of experts concerning the economic embargo imposed by the United States of America against Cuba and the attempt by the United States Government to present the nationalizations of foreign property in Cuba as a pretext for the embargo was distributed as an official document at the forty-eighth session of the General Assembly (A/48/258 of 12 July 1993).

The document explains why the United States cannot use the argument of the nationalizations of foreign property in Cuba to justify its embargo policy against the country, presenting it as an insurmountable obstacle to the rescission of the policy. It also addresses the question of the legitimacy of the Cuban nationalization process, which was protected by international law and justified by the national interest of a State embarking on radical social change. Lastly, it reaffirms that no State can be subjected to economic, political or any other kind of coercion for exercising the right to nationalization, which constitutes a sovereign decision.

A number of bills directed against Cuba have been introduced at the 104th session of the United States Congress. They include, in particular, the so-called "Cuban Liberty and Democratic Solidarity Act of 1995", which seeks to internationalize and thereby intensify the country's unilateral and illegal economic embargo against Cuba, applying coercive measures to the international community for the purpose.

Such action undermines trade relations and investment by nationals of third countries in Cuba and interferes with the sovereignty of the States concerned in the matter of deciding how to conduct their international relations. It also disregards, yet again, the resolution adopted by the General Assembly on 26 October 1994, by an overwhelming majority of 101 in favour and only 2 against, which found the embargo to be illegal and urged that it should be lifted.

The above-mentioned bill furthermore seeks to cast doubts on the legitimacy of the Cuban nationalization process and to create fear among investors from other countries, who are purportedly "trafficking" with United States property in Cuba. To that end, the bill seeks to institutionalize various threats of retaliation against enterprises and individuals investing in property that belonged in the past to "United States nationals", arbitrarily extending that status to persons who, at the time of the nationalization, were Cuban citizens and subsequently acquired United States citizenship.

The object of this report is to show that the Government of Cuba has scrupulously fulfilled its obligations, assumed voluntarily and in good faith, to compensate for all foreign property nationalized under legislation promulgated since 1959, except United States property, and to state the reasons for this exception.

The report also describes the legal guarantees that Cuba offers to any foreign counterpart who wishes to do business with the country.

I

Before reviewing the nationalization process in Cuba, it is important to mention certain relevant concepts that have been recognized by the international community.

The General Assembly and other organs of the United Nations have confirmed, in what have become landmark resolutions, that countries engaged in a process of social transformation have the right under international law to nationalize foreign property and that the question of compensation is a matter for sovereign decision by the nationalizing country.

In 1973, the General Assembly, in paragraph 3 of its resolution 3171 (XXVIII):

> "Affirms that the application of the principle of nationalization carried out by States, as an expression of their sovereignty in order to safeguard their natural resources, implies that each State is entitled to determine the amount of possible compensation and the mode of payment, and that any disputes which might arise should be settled in accordance with national legislation of each State carrying out such measures".

In 1974 the General Assembly adopted resolution 3201 (S-VI), entitled "Declaration on the establishment of a new international economic order", which recognized as one of its principles:

> "Full permanent sovereignty of every State over its natural resources and all economic activities. In order to safeguard these resources, each State is entitled to exercise effective control over them and their exploitation with means suitable to its own situation, including the right to nationalization or transfer of ownership to its nationals, this right being an expression of the full permanent sovereignty of the State. No State may be subjected to economic, political or any other type of coercion to prevent the free and full exercise of this inalienable right".

Shortly thereafter, the General Assembly, in resolution 3281 (XXIX), adopted the Charter of Economic Rights and Duties of States, article 2, paragraph 2 (c), of which stipulates that each State has the right:

> "To nationalize, expropriate or transfer ownership of foreign property, in which case appropriate compensation should be paid by the State adopting such measures, taking into account its relevant laws and regulations and all circumstances that the State considers pertinent. In any case where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals, unless it is freely and mutually agreed by all States concerned that other peaceful means be sought on the basis of the sovereign equality of States and in accordance with the principle of free choice of means".

The views and practice of States are consistent with these General Assembly resolutions. States in Asia, Africa, Latin America and Eastern Europe have carried out extensive nationalizations of property belonging to foreigners without incurring any obligation under international law in relation to the payment of compensation.

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The Cuban nationalizations were carried out in full compliance with the principles set forth above.

The Cuban process was not discriminatory, nor was it undertaken in retaliation for the elimination of the sugar quota, as alleged by some United States sources. Nationalization affected property held by Cubans and foreigners alike. The particularity of the situation lay in the fact that the country's best land, mines, leading banks, telephone system, communications, electric power system and sugar mills were in United States hands.

In the months following the triumph of the revolution in 1959, the United States Government began to harass the country in open opposition to the new process under way in Cuban society. The nationalization of United States property was begun in 1960 in response to continuous attacks on Cuban economic targets combined with United States domination of all basic sectors of activity in the country and the need to consolidate the new economic, political and social process.

Act No. 851/60, promulgated on 6 July 1960, authorized the President of the Republic and the Prime Minister to provide jointly, through resolutions, for the nationalization by expropriation of property in Cuba belonging to natural or juridical persons having the status of United States nationals.

The legislation established procedures for paying for expropriated property through the issue of government bonds for that purpose by the Cuban State. The interest on the bonds was to be paid out of a fund consisting of 25 per cent of the foreign exchange received from sugar sales to the United States from Cuba each calendar year in excess of three million Spanish long tons at a price of not less than 5.75 United States cents per pound. These bonds would be amortized within a period of at least 30 years from the date of expropriation of the property.

The transparent procedure instituted by the Cuban authorities is not only recognized by international law; courts in the United States itself have confirmed the validity under international legislation of the Cuban nationalization process in lawsuits brought by United States nationals.

One example is the decision of the United States Supreme Court in the well-known Sabbatino case, in which the merits of the "act of state" represented by the Cuban nationalizations were examined in the lawsuit concerning shipments of sugar by the Compañía Azucarera Vertientes to the United States company Farr, Whitlock & Co. in New York in February and June 1960.

On 24 March 1964, the Court, voting 8 to 1 in favour of Cuba, handed down the following judgement which has become legal doctrine: "Every sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not sit in judgment on the acts of the government of another, done within its own territory. Redress of grievances by reason of such acts must be obtained through the means open to be availed of by sovereign powers as between themselves."

It concluded: "However offensive to the public policy of this country and its constituent States an expropriation of this kind [376 U.S. 437] may be, we conclude that both the national interest and progress toward the goal of establishing the rule of law among nations are best served by maintaining intact the act of state doctrine in this realm of its application."

However, while the United States courts were still hearing cases related to the question of nationalizations in Cuba, the United States Government, on 6 February 1962, proclaimed a full-scale economic blockade of Cuba; this policy had already been set in motion and was being gradually expanded, restricting, inter alia, exports of Cuban sugar to the United States.

It therefore follows that the non-payment of compensation for expropriated property to United States nationals in Cuba may also be attributed to the embargo imposed by the United States, inasmuch as the total ban on trade in sugar between the two countries was responsible for preventing United States citizens and entities from receiving the compensation provided for in the above-mentioned Cuban legislation.

Unlike other countries, the United States Government did not opt for negotiation to defend the interests of its nationals; United States citizens were denied access to the mode of payment established by Act No. 851/60 by their own Government when it eliminated the Cuban sugar quota and thereby automatically and arbitrarily deprived them of their right to receive appropriate compensation.

III

The United States is seeking to undermine investor confidence by alleging a so-called right to United States property in Cuba and holding itself up as the "censor" of potential foreign investment in sectors which may include former United States property.

It seeks recognition of its argument that former United States-owned property cannot be freely used and that such property will probably be returned in negotiations with a future Government of Cuba.

It claims, moreover, that international law requires the Government of Cuba to pay "prompt, adequate and effective compensation", a claim which in fact lacks any basis, since the issue of compensation and its modalities is within the competence of the State carrying out the nationalization.

In sum, the United States is attempting to exercise a right of prior authorization over investments in Cuba by nationals of third countries.

The reply to such claims is clear: there is no United States property in Cuba. Ownership of all such property was transferred to the Cuban people through a process of nationalization, in conformity with international law which was carried out through expropriation in exercise of the power of eminent domain under article 24 of the Cuban Constitution of 1940 and the corresponding article of the Fundamental Law of 7 February 1959. Moreover, the property of the United States in Cuba was liquidated under the international Claims Settlement Act of 16 October 1964, of the Cuba Programme of the United States Foreign Claims Settlement Commission, and converted into bonds.

Article 15 (b) of the Constitution of the Republic of Cuba reaffirms that the sugar mills, factories, chief means of transportation and all those enterprises, banks and installations that have been nationalized and expropriated are the property of the socialist State and of the entire people.

The Cuban nationalizations formed part of the measures that were necessary to guarantee the economic and social development of the Cuban people and, even though there was no obligation at that time under international law to pay compensation for nationalized property, the Cuban laws governing nationalization contained such a provision.

The nationalizations returned the properties to the people of Cuba, who are using and managing them fully in accordance with the Constitution and the law. Foreign investors have nothing to fear, for their investments are protected under the Constitution.

The legal framework in Cuba is constantly being improved to protect and guarantee foreign investments.

The guarantees derive from a solid base. Under article 23 of the Constitution of the Republic, the State recognizes ownership of joint ventures, enterprises and economic partnerships which are constituted in accordance with the law.

In addition, Decree-Law 50 of 1982 has regulated all economic partnerships and foreign investments in Cuba to date and provides a broad and flexible legal framework for them.

Another Investment Act is currently being drafted to make the legislation in force even more flexible, in keeping with the development of new economic modalities.

These have been supplemented by investment protection agreements signed with the various countries which currently have joint ventures with Cuba.

The process of investment in Cuba thus has impeccable legal support, reinforced by the acknowledged transparency of the procedures employed by the Cuban authorities in dealing with each case.

IV

The refusal of the United States to join Cuba in seeking a negotiated solution to the problem of compensation contrasts with the international practice of that country in other similar cases.

Since the Second World War, the United States has negotiated 10 lump sum agreements in settlement of claims arising from the widespread nationalization of United States-owned property in other countries (see, for example, Lilich and Weston, International Claims: Their Settlement By Lump Sum Agreements, 1975).

Agreement on a lump sum settlement, the method used in the agreements concluded since the end of the Second World War under the above-mentioned modality known as "lump sum agreements", is reached through diplomatic negotiations between Governments and is aimed at establishing a lump sum or total amount of compensation payable over a number of years and distributed to the parties concerned by the Government which represents them. The period over which the compensation is paid varies, and payment may be in kind or in cash as well as in the form of compensation for reciprocal debts, as agreed upon by the parties.

In these settlements, the United States has accepted an average of somewhat less than 50 per cent of the stated value of the nationalized property, without any provision for interest. The average period of time provided in these agreements for the payment of compensation is 20 years.

In the case of Cuba, the Government of the United States must adopt a similarly balanced position and abandon its failed policy of economic coercion, if indeed it wishes to protect the interests of its nationals and to repair the damage which that policy has caused them.

In contrast with the position taken by the Government of the United States, other Governments have taken up in the correct manner the issue of their citizens' ownership of properties in Cuba and, through negotiations conducted with the Government of Cuba on the basis of equality and mutual respect, agreements advantageous to all parties have been reached.

Cuba negotiated and ensured the timely payment of compensation through lump sum agreements concluded and implemented with Canada, France, Spain and Switzerland.

Agreements were also reached with Italy, Mexico and the United Kingdom, the aim in those cases being to satisfy specific claims of nationals of those countries.

The above-mentioned countries, respecting the decisions of the people of Cuba, desirous of ensuring that their nationals suffered no harm as a result of misguided foreign policy decisions, on the basis of good faith and without resorting to reprisals of any sort, have signed the following agreements in settlement of foreign claims in respect of property affected by Cuban nationalizations after January 1959:

Agreement of 2 March 1962 between the Revolutionary Government and the Government of the Swiss Confederation concerning compensation for Swiss property, rights and interests affected by the laws enacted by the Revolutionary Government of the Republic of Cuba beginning on 1 January 1959.

Agreement of 16 March 1967 between the Revolutionary Government of Cuba and the Government of the French Republic concerning compensation for French property, rights and interests affected by the laws and measures enacted by the Revolutionary Government of the Republic of Cuba beginning on 1 January 1959.

Exchange of notes of 18 October 1978 between the Government of the Republic of Cuba and the United Kingdom of Great Britain and Northern Ireland on compensation of British nationals following the application of nationalizations, expropriations and other similar laws and measures beginning on 1 January 1959.

Agreement of 7 November 1980 between the Government of the Republic of Cuba and the Government of Canada concerning the settlement of Canadian claims.

Agreement of 26 January 1988 between the Republic of Cuba and the Kingdom of Spain on compensation for the property of Spanish nationals affected by the laws, regulations and measures enacted by the Government of the Republic of Cuba beginning on 1 January 1959.

The first four agreements have been fully implemented and payments thereunder completed by the Government of Cuba to the respective Governments in accordance with the amount agreed upon as settlement of the claim. The agreement with Spain is being implemented over a stipulated period of 20 years.

Payments as compensation for foreign properties nationalized in Cuba amounted to $60 million, under the agreements concluded with France, Italy, Spain and Switzerland, together with the other countries with which similar claims from individual citizens were satisfied.

Cuba has thus reaffirmed that, in principle, it recognizes these obligations. Only United States claimants have not yet received payments, as already explained, because successive United States Administrations have prevented them from doing so for political reasons.

The seriousness with which the Government of Cuba has fulfilled its international obligations in this field needs no further demonstration.

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Fiftieth session
Items 18 and 90 of the
preliminary list*

IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES BY THE SPECIALIZED AGENCIES AND THE INTERNATIONAL INSTITUTIONS ASSOCIATED WITH THE UNITED NATIONS

Report of the Secretary-General

CONTENTS

		Page
I.	INTRODUCTION	2
II.	REPLIES FROM THE SPECIALIZED AGENCIES AND THE INTERNATIONAL INSTITUTIONS FORMING PART OF OR ASSOCIATED WITH THE UNITED NATIONS	3
	Universal Postal Union	3
	International Maritime Organization	4

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I. INTRODUCTION

1. At its forty-ninth session, the General Assembly adopted resolution 49/41 of 9 December 1994 concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations. In paragraph 18 of that resolution, the Assembly requested the Secretary-General to continue to assist the specialized agencies and other organizations of the United Nations system in working out appropriate measures for implementing the relevant resolutions of the United Nations and to prepare for submission to the relevant bodies, with the assistance of those agencies and organizations, a report on the action taken in implementation of the relevant resolutions, including that resolution, since the circulation of his previous report.

2. In a letter dated 15 March 1995, the Secretary-General transmitted the text of the resolution to the executive heads of the following specialized agencies and international institutions forming part of or associated with the United Nations, and invited them to submit the information requested for inclusion in the report referred to in the above paragraph:

United Nations Children's Fund (UNICEF)

United Nations Conference on Trade and Development (UNCTAD)

United Nations Development Programme (UNDP)

United Nations Environment Programme (UNEP)

World Food Programme (WFP)

Office of the United Nations High Commissioner for Refugees (UNHCR)

United Nations Institute for Training and Research (UNITAR)

International Labour Organization (ILO)

Food and Agriculture Organization of the United Nations (FAO)

United Nations Educational, Scientific and Cultural Organization (UNESCO)

International Civil Aviation Organization (ICAO)

World Health Organization (WHO)

World Bank

International Monetary Fund (IMF)

Universal Postal Union (UPU)

International Telecommunication Union (ITU)

World Meteorological Organization (WMO)

International Maritime Organization (IMO)

World Intellectual Property Organization (WIPO)

International Fund for Agricultural Development (IFAD)

United Nations Industrial Development Organization (UNIDO)

International Atomic Energy Agency (IAEA)

League of Arab States (LAS)

Organization of African Unity (OAU)

Organization of American States (OAS)

3. Given below are summaries of the replies received by the Secretary-General from the international organizations concerned in response to the above-mentioned letter (for the contribution of UNDP, see E/1995/85, Introduction).

4. Summaries of additional replies received, together with such further information as may become available on relevant activities undertaken by the organizations concerned during the year, will be circulated in addenda to the present report.

5. In addition, the Secretary-General transmitted the text of the resolution to the various departments and other units of the United Nations Secretariat. Information received in that regard will also be circulated in addenda to the present report.

II. REPLIES FROM THE SPECIALIZED AGENCIES AND THE INTERNATIONAL INSTITUTIONS FORMING PART OF OR ASSOCIATED WITH THE UNITED NATIONS

UNIVERSAL POSTAL UNION

[Original: English]

[15 May 1995]

Pursuant to article IV of the United Nations-Universal Postal Union (UPU) Agreement, the twenty-first Universal Postal Congress, held at Seoul from 22 August to 14 September 1994, had before it a report on the implementation by the specialized agencies of the Declaration on the Granting of Independence to Colonial Countries and Peoples. After noting the measures adopted by UPU during the five-year period 1990-1994, the Congress took decision C 57/1994 (annex) aimed at stepping up efforts, to the extent of its possibilities and available resources, to increase assistance to these countries, adapting its activities to

changes in the situation in the regions concerned and as part of a coordinated action plan.

Annex

Decision C 57/1994. Implementation by the specialized agencies of the Declaration on the Granting of Independence to Colonial Countries and Peoples 1/

Congress

Notes

- The Director-General's report on implementation by the specialized agencies of the Declaration on the Granting of Independence to Colonial Countries and Peoples;

- The efforts made by UPU to aid refugees and Non-Self-Governing Territories as well as the newly independent countries and the least developed countries (LDCs);

Decides

To step up efforts to the extent of its possibilities and available resources to increase assistance to these countries, adapting its activities to changes in the situation in the regions concerned and as part of a coordinated action plan.

INTERNATIONAL MARITIME ORGANIZATION

[Original: English]

[9 December 1994]

The International Maritime Organization (IMO) actively assists Governments of States and Territories in the wider Caribbean region to prepare contingency plans for responding to maritime incidents involving spillages of oil and other hazardous substances. This task is facilitated by the IMO Regional Consultant on Marine Pollution, Port Safety and Security posted in Puerto Rico. Within the framework of follow-up both to the IMO 1990 Convention and the UNEP Caribbean Action Plan for protection of the marine environment, IMO organized a subregional meeting of government-designated experts of the island States and Territories of the wider Caribbean on oil spill contingency planning. This was held at Caracas, Netherlands Antilles, from 23 to 27 November 1992. The list of participants included Anguilla, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands.

1/ Congress, Doc. 25, 10th plenary meeting.

In addition, under the IMO subprogramme for the protection of the marine environment (1993-1995), the participants in the above-mentioned meeting can have access to advisory services, training, research and information materials in the area of marine pollution prevention.